

**ASSEMBLY BILL**

**No. 1345**

**Introduced by Assembly Member Richman**

February 22, 2005

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An act to amend Section 4850 of, and to add Section 4821 to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1345, as introduced, Richman. Workers' compensation: aggregate disability payments.

Existing workers' compensation law requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law generally provides that whenever certain public employees are disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of their duties, they shall become entitled, regardless of their period of service with the public employer, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments, for a period not exceeding one year.

This bill would define "leave of absence while so disabled without loss of salary" for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4821 is added to the Labor Code, to  
2 read:

1     4821. (a) For purposes of this article, “leave of absence while  
2     so disabled without loss of salary” means the amount of salary  
3     received after federal income tax, state income tax, and the  
4     employee’s retirement contribution has been deducted from the  
5     employee’s gross salary.

6     (b) For purposes of subdivision (a), any reduction in the  
7     amount withheld for federal income tax or state income tax that  
8     is initiated by the employee during the 12 months prior to the  
9     date that an industrial injury is claimed shall be based on a  
10    material change in the tax situation. If the reduction is not based  
11    on a material change in the employee’s tax situation, the amount  
12    of salary received after federal income tax, state income tax, and  
13    the employee’s retirement contribution shall be determined using  
14    the employees’ tax withholding information as it was stated prior  
15    to the date that the change was initiated by the employee.

16    SEC. 2. Section 4850 of the Labor Code is amended to read:

17    4850. (a) Whenever any person listed in subdivision (b) who  
18    is a member of the Public Employees’ Retirement System or the  
19    Los Angeles City Employees’ Retirement System or subject to  
20    the County Employees Retirement Law of 1937 (Chapter 3  
21    (commencing with Section 31450) of Part 3 of Division 4 of Title  
22    3 of the Government Code), is disabled, whether temporarily or  
23    permanently, by injury or illness arising out of and in the course  
24    of his or her duties, he or she shall become entitled, regardless of  
25    his or her period of service with the city, county, or district, to a  
26    leave of absence while so disabled without loss of salary in lieu  
27    of temporary disability payments or maintenance allowance  
28    payments under Section 139.5, if any, which would be payable  
29    under this chapter, for the period of the disability, but not  
30    exceeding one year, or until that earlier date as he or she is  
31    retired on permanent disability pension, and is actually receiving  
32    disability pension payments, or advanced disability pension  
33    payments pursuant to Section 4850.3.

34    (b) The persons eligible under subdivision (a) include all of  
35    the following:

- 36    (1) City police officers.
- 37    (2) City, county, or district firefighters.
- 38    (3) Sheriffs.
- 39    (4) Officers or employees of any sheriff’s offices.

1 (5) Inspectors, investigators, detectives, or personnel with  
2 comparable titles in any district attorney's office.

3 (6) County probation officers, group counselors, or juvenile  
4 services officers.

5 (7) Officers or employees of a probation office.

6 (8) Peace officers under Section 830.31 of the Penal Code  
7 employed on a regular, full-time basis by a county of the first  
8 class.

9 (9) Lifeguards employed year round on a regular, full-time  
10 basis by a county of the first class.

11 (10) Airport law enforcement officers under subdivision (d) of  
12 Section 830.33 of the Penal Code.

13 (11) Harbor or port police officers, wardens, or special officers  
14 of a harbor or port district or city or county harbor department  
15 under subdivision (a) of Section 830.1 or subdivision (b) of  
16 Section 830.33 of the Penal Code.

17 (12) Police officers of the Los Angeles Unified School  
18 District.

19 (c) This section shall apply only to persons listed in  
20 subdivision (b) who meet the requirements of subdivision (a) and  
21 does not include any of the following:

22 (1) Employees of a police department whose principal duties  
23 are those of a telephone operator, clerk, stenographer, machinist,  
24 mechanic, or otherwise, and whose functions do not clearly fall  
25 within the scope of active law enforcement service.

26 (2) Employees of a county sheriff's office whose principal  
27 duties are those of a telephone operator, clerk, stenographer,  
28 machinist, mechanic, or otherwise, and whose functions do not  
29 clearly come within the scope of active law enforcement service.

30 (3) Employees of a county probation office whose principal  
31 duties are those of a telephone operator, clerk, stenographer,  
32 machinist, mechanic, or otherwise, and whose functions do not  
33 clearly come within the scope of active law enforcement service.

34 (4) Employees of a city fire department, county fire  
35 department, or fire district whose principal duties are those of a  
36 telephone operator, clerk, stenographer, machinist, mechanic, or  
37 otherwise, and whose functions do not clearly fall within the  
38 scope of active firefighting and prevention service.

1 (d) If the employer is insured, the payments which, except for  
2 this section, the insurer would be obligated to make as disability  
3 indemnity to the injured, the insurer may pay to the insured.

4 (e) No leave of absence taken pursuant to this section by a  
5 peace officer, as defined by Chapter 4.5 (commencing with  
6 Section 830) of Title 3 of Part 2 of the Penal Code, or by a city,  
7 county, or district firefighter, shall be deemed to constitute  
8 family care and medical leave, as defined in Section 12945.2 of  
9 the Government Code, or to reduce the time authorized for  
10 family care and medical leave by Section 12945.2 of the  
11 Government Code.

12 (f) (1) *For purposes of this section, “leave of absence while*  
13 *so disabled without loss of salary” means the amount of salary*  
14 *received after federal income tax, state income tax, and the*  
15 *employee’s retirement contribution has been deducted from the*  
16 *employee’s gross salary.*

17 (2) *For purposes of paragraph (1), any reduction in the*  
18 *amount withheld for federal income tax or state income tax that*  
19 *is initiated by the employee during the 12 months prior to the*  
20 *date that an industrial injury is claimed shall be based on a*  
21 *material change in the tax situation. If the reduction is not based*  
22 *on a material change in the employee’s tax situation, the amount*  
23 *of salary received after federal income tax, state income tax, and*  
24 *the employee’s retirement contribution shall be determined using*  
25 *the employees’ tax withholding information as it was stated prior*  
26 *to the date that the change was initiated by the employee.*